IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5486 OF 2003

1. Mrs Swati Vinayak Pathak and ors .. Petitioners

Vs

1. Narhar Vishnu Dharap, since deceased
through legal heir
1-A Shri Ramesh Narhar Dharap .. Respondent.

Mr A.V.Anturkar, for the petitioners.

Mr V.S.Gokhale, for the respodnent.

CORAM : D.B.BHOSALE,J.

DATE : 30th November, 2004.

PC:

1. This petition is arising out of the order dated 31.3.2003 passed by the learned Addl.District Judge, Pune, rejecting the application filed by the petitioners under section 10 of the Civil Procedure Code. The said application was filed seeking stay of Regular Civil Appeal No.429 of 2001 pending hearing and final disposal of the Writ Petition No.2520 of 1996. Regular Civil Appeal no.429 of 2001 challenges the judgment and decree dated 27.4.2001 passed by the learned 2nd Jt Civil Judge Sr.Dn., Pune in Spl.Civil Suit No.1143 of 1987, which was filed for possession of the suit premises by the

respondent. The writ petition pending in this Court is arising out of the suit filed by the petitioner seeking declaration that he is a tenant in the suit premises. The writ petition is admitted and is pending for final disposal. Inter alia, the property involved in the appeal and the writ petition is one and the same.

2. After having heard the learned counsel appearing for the parties and considered the overall facts and circumstances of the case, in my opinion, the hearing of Regular Civil Appeal No.429 of 2001 need not be stayed and I am satisfied that the following order will meet the ends of justice.

(i) Regular Civil Appeal No.429 of 2001 be decided on merits in accordance with law. The judgment and decree passed by the learned Jt Civil Judge, Sr Dn, Pune dated 27.4.2001, however, shall not be executed till the disposal of writ petition no.2520 of 1996.

3. With these directions, the writ petition stands disposed of.

(D.B.BHOSALE, J.)